



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

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DAVID E. JANSSEN
Chief Administrative Officer

November 24, 2003

To: Supervisor Yvonne Brathwaite Burke, Chair
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

Board of Supervisors
GLORIA MOLINA
First District

YVONNE BRATHWAITE BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

FEDERAL LEGISLATIVE UPDATE

Medicare Prescription Drug Bill (H.R. 1)

On November 22, 2003, the House adopted, 220 to 215, the conference report (H. Rpt. 108-391) for the Medicare prescription drug bill (H.R. 1), before it recessed for the Thanksgiving holiday. The Senate also is expected to pass the bill this week, clearing it for the President's signature. The conference version includes a number of non-Medicare provisions of major interest to the County, as described below:

Medicaid Disproportionate Share Hospital (DSH) Funding: The bill increases annual state Medicaid DSH allotments by 16% beginning in Federal Fiscal Year (FFY) 2004. This 16% increase is less than the 20% increase in the County-supported House version, but more than the increase in the Senate bill. As a result, California's FFY 2004 DSH allotment would be \$1,032.6 million, compared to \$1,068.2 million in the House bill and \$999.4 million in the Senate bill. DSH funding cuts originally enacted under the Balanced Budget Act of 1997 had reduced California's DSH allotment from \$1,047 million in FFY 2002 to \$890.2 million in FFY 2003.

Medicaid DSH Reporting and Audit Requirements: The conference report includes language requiring each state to submit an annual report to the Secretary of Health and Human Services identifying the amount of the DSH payment received by each DSH hospital and other information that the Secretary determines necessary to ensure the appropriateness of DSH payments. Each state also is required to submit an independent certified audit to the Secretary verifying the extent to which DSH hospitals have reduced their uncompensated care costs to reflect DSH payments received, the state's compliance with hospital-specific DSH payment limits, the methodology used to

calculate such limits, and the state's documentation and record-keeping with respect to DSH-related costs, expenditures, and payments.

The House bill did not include any new DSH reporting and audit requirements while the Senate bill included the new annual reporting requirements, but not the audit requirements.

Reimbursement of Undocumented Immigrant Emergency Health Care: The conference report appropriates \$250 million a year in FFYs 2005 through 2008 to reimburse health care providers for the cost of emergency health care provided to undocumented immigrants, aliens paroled at port of entries for the purpose of receiving emergency care, and Mexican citizens with 72-hour biometric border crossing permits. Within that amount, \$167 million annually will be allotted to states, based on each state's percentage share of the total U.S. undocumented immigrant population, as determined by the Immigration and Naturalization Service (INS), as of January 2003. The remaining \$83 million will be allotted to the six states with the highest number of undocumented immigrant apprehensions, based on those states' share of such apprehensions during the most recent four quarters. From the state allotments, the Secretary of Health and Human Services will make direct payments to health providers using a payment and cost calculation methodology established by the Secretary.

This conference report language is similar to County-supported language in the Senate bill, except that the conference report allows emergency health costs for certain parolees and Mexican citizens with border crossing permits as well as for undocumented immigrants to be reimbursed from the \$250 million a year in available funds. The House bill did not include any funding.

Earlier this year, the California Institute estimated that California's annual allotment would total \$72.2 million. The County's share of available funds will depend on our percentage share of the State's total eligible costs, which cannot be estimated at this time.

Medicaid Drug Rebate: The conference report includes County-supported language clarifying that inpatient drug prices charged to public hospitals are included under the "best price" exemptions under the Medicaid drug rebate program. Both Senate and House versions included similar language. The Centers for Medicare and Medicaid Services has interpreted current law's best price exemption as only applying only to outpatient drugs purchased by public hospitals. The Department of Health Services estimates that the County could save \$4.5 million to \$6.5 million a year if it were able to purchase inpatient drugs at the lowest price offered by pharmaceutical manufacturers, as provided under the Medicaid drug rebate program.

The conference report on H.R. 1 does not include County-supported language in the Senate bill, which would have provided states with the option to extend Medicaid and State Children's Health Insurance Program (SCHIP) eligibility to legal immigrant children and pregnant women who have been in the United States for less than five years in FFYs 2005 through 2007. Under current law, legal immigrants who entered the U.S. after August 22, 1996 are ineligible for Medicaid and SCHIP benefits during their first five years in the country. The House version did not include a state option to extend Medicaid and SCHIP eligibility to newly arrived legal immigrants.

FFY 2004 Appropriations

House and Senate conferees and the Administration are nearing agreement on an omnibus FFY 2004 appropriations bill to fund Federal programs and activities not yet funded through individual appropriations bills. This would include funding for all major programs of County interest except for those administered by the Department of Homeland Security. Details of the legislation are not yet available though the County's Washington advocates have heard that it most likely will include \$1 billion in additional election reform funding, as supported by your Board. In the event that final agreement on the omnibus spending bill is not reached, the President recently signed H.J.Res. 79, a continuing resolution to fund Federal programs through January 31, 2004.

We will continue to keep you advised of any new developments.

DEJ:GK
MAL:MT:hg

c: Executive Officer, Board of Supervisors
 County Counsel
 All Department Heads
 Legislative Strategist